

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed September 9, 2004. Applicant appreciates the Examiner's consideration of the Application. Claims 1, 3, 8, 10, 12, 15, 17, 21-22, 24-25, and 32 have been amended to clarify, more particularly point out, and more distinctly claim inventive concepts previously present in these claims. Applicant makes no admission that these amendments narrow the scope of the claims or that the amendments are required for patentability. Applicant respectfully submits that no new matter has been added by the amendments to the claims. In order to advance prosecution of this Application, Applicant has responded to each notation by the Examiner. Applicant respectfully requests reconsideration and favorable action in this case.

**Section 102 Rejection**

The Examiner rejects Claims 1-3, 6-10, 12-17, and 19-32 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,542,602 to Elazar ("*Elazar*"). Applicant respectfully traverses this rejection for the reasons discussed below.

Applicant respectfully submits that *Elazar* fails to disclose, or even teach or suggest, the elements specifically recited in the claims. For example, *Elazar* fails to disclose, or even teach or suggest, elements (1) through (3) specifically recited in Claim 1, as amended.

(1) identifying a base value for the monitored signal characteristic, the base value representing a typical value for the monitored signal characteristic, the base value defining a threshold range;

(2) establishing whether a subsequent value for the signal characteristic is outside of the threshold range; and

(3) determining that the parameter of the conversation exceeds the threshold if the subsequent value for the signal characteristic is outside of the threshold range.

*Elazar* discloses a call monitoring method that includes:

a) receiving a CTI datum associated with a telephone call between an agent and a party, b) determining whether the telephone call is to be recorded by determining whether the CTI datum meets at least one predefined monitoring condition, and, if so, c) recording at least a portion of the telephone call.

(*Elazar*, column 1, lines 43-51.)

According to *Elazar*, the predefined monitoring conditions may be given by:

1. telephone numbers of customers who should or should not be monitored;
2. specific data fields on display 22 (FIG. 1) that, when data are entered into the fields, signal that the call is to be monitored;
3. a table of agent scores and the monitoring frequency for each score level;
4. a table of agent skills and the monitoring frequency for each skill;
5. words that, when spoken during a telephone call, signal that the call is to be monitored (e.g., obscenities);
6. words that, when not spoken during a telephone call, signal that the call is to be monitored (e.g., "please" and "thank you");
7. a table of speech rates and the monitoring frequency for each speech rate;
8. a table of word counts and the monitoring frequency for different word counts; and
9. CTI data, including business information gathered regarding the calling or called party.

(*Elazar*, column 7, line 56-column 8, line 9.)

That is, *Elazar* uses a ***predefined monitoring condition*** to determine whether to monitor a call, where predefined monitoring conditions may include telephone numbers, words, speech rates, and word counts. *Elazar*, however, ***does not*** identify any base values representing typical values for a monitored signal characteristic, and ***does not*** use the base values to determine whether to monitor a call. Consequently, at a minimum, *Elazar* fails to disclose, teach, or suggest “identifying a base value for the monitored signal characteristic, the base value representing a typical value for the monitored signal characteristic, the base value defining a threshold range,” “establishing whether a subsequent value for the signal characteristic is outside of the threshold range,” and “determining that the parameter of the conversation exceeds the threshold if the subsequent value for the signal characteristic is outside of the threshold range,” as recited in Claim 1, as amended. For at least these reasons, *Elazar* fails to disclose, teach, or suggest the elements specifically recited in independent Claim 1.

The dependent claims are allowable based on their dependence on the independent claims and further because they recite numerous additional patentable distinctions over the reference of the rejection. Because Applicant believes he has amply demonstrated the allowability of the independent claims over the reference of the rejection, and to avoid burdening the record, Applicant has not provided detailed remarks concerning these

dependent claims. Applicant, however, remains ready to provide such remarks if it becomes appropriate to do so.

Independent Claims 8, 15, 21, 22, 25, and 32 recite certain limitations substantially similar to those recited in independent Claim 1. Accordingly, for at least the same reasons, Applicant also respectfully requests reconsideration and allowance of independent Claims 8, 15, 21, 22, 25, and 32, together with their dependent claims, and independent Claim 32.

**Section 103(a) Rejection**

The Examiner rejects Claims 4, 5, 11, and 18 under 35 U.S.C. § 103(a) as being unpatentable over *Elazar*. Applicant respectfully traverses this rejection for the reasons discussed below.

As discussed above, *Elazar* fails to disclose, teach, or suggest elements (1) through (3). For at least these reasons, *Elazar*, even in combination with alleged knowledge of one skilled in the art at the time of the invention relied on by the Examiner, fails to disclose teach, or suggest the combination of elements specifically recited in independent Claims 1, 8, and 15. The dependent claims are allowable based on their dependence on the independent claims and further because they recite numerous additional patentable distinctions over the reference of the rejection. Because Applicant believes he has amply demonstrated the allowability of the independent claims over the reference of the rejection, and to avoid burdening the record, Applicant has not provided additional detailed remarks concerning these dependent claims. Applicant, however, remains ready to provide such remarks if it becomes appropriate to do so.

Accordingly, Applicant respectfully requests reconsideration and allowance of Claims 4, 5, 11, and 18.

**CONCLUSION**

Applicant has made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicant respectfully requests full allowance of all the pending claims.

If the Examiner believes a telephone conference would advance prosecution of this case in any way, the Examiner is invited to contact Keiko Ichiye, the Attorney for Applicant, at the Examiner's convenience at (214) 953-6494.

Although Applicant believes no fees are due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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